

State of Arizona
House of Representatives
Forty-eighth Legislature
Second Regular Session
2008

HOUSE BILL 2455

AN ACT

AMENDING SECTIONS 8-304, 8-541, 8-542, 8-801, 8-802, 8-807, 8-817, 8-821 AND 8-846, ARIZONA REVISED STATUTES; RELATING TO CHILD PROTECTIVE SERVICES.

(TEXT OF BILL BEGINS ON NEXT PAGE)

1 Be it enacted by the Legislature of the State of Arizona:

2 Section 1. Section 8-304, Arizona Revised Statutes, is amended to
3 read:

4 8-304. Investigation of alleged acts of delinquency,
5 dependency, and incorrigibility

6 A. The law enforcement officer having jurisdiction in the place in
7 which an act of delinquency or incorrigibility is alleged to have occurred
8 shall have the responsibility for the complete investigation surrounding the
9 alleged commission of the act.

10 B. A child protective services specialist of the department shall have
11 the responsibility for the complete investigation of all complaints of
12 alleged dependency, and ~~an extremely serious~~ A CRIMINAL conduct allegation
13 shall be investigated in cooperation with the appropriate law enforcement
14 agencies and according to the protocols established pursuant to section
15 8-817. The department shall be responsible for the disposition of such child
16 unless the matter requires the intervention of the court. For the purposes
17 of this subsection, "~~extremely serious~~ CRIMINAL conduct allegation" has the
18 same meaning prescribed in section 8-801.

19 Sec. 2. Section 8-541, Arizona Revised Statutes, is amended to read:

20 8-541. Records; inspection; exception

21 A. All files, records, reports and other papers compiled in accord
22 with this article, whether filed in or in possession of the court, a child
23 placement agency or other agency or association, ~~shall be withheld from~~
24 ~~public inspection~~ ARE SUBJECT TO DISCLOSURE PURSUANT TO SECTION 8-807.

25 ~~B. Such files, records, reports and other papers may be open to~~
26 ~~inspection by persons and agencies having a legitimate interest in the case~~
27 ~~and their attorneys and by other persons and agencies having a legitimate~~
28 ~~interest in the protection, welfare or treatment of the child if so ordered~~
29 ~~by the court.~~

30 ~~C. B. The provisions of~~ This section ~~shall~~ DOES not ~~be construed to~~
31 prohibit persons employed by the court, the division or a licensed child
32 welfare agency from conducting the investigations or performing other duties
33 pursuant to this article and done within the normal course of their
34 employment.

35 Sec. 3. Section 8-542, Arizona Revised Statutes, is amended to read:

36 8-542. Confidentiality of information; violation;
37 classification

38 A. It is unlawful, except for purposes for which files and records or
39 social records or parts ~~thereof~~ OF or information ~~therefrom~~ FROM FILES AND
40 RECORDS OR SOCIAL RECORDS have been released pursuant to section 8-541, or
41 except for purposes permitted by order of the court, for any person to
42 knowingly disclose, receive or make use of, or authorize, knowingly permit,
43 participate in or acquiesce in the use of, any information involved in any
44 proceeding under this article directly or indirectly derived from the files,

1 records, reports or other papers compiled pursuant to this article, or
2 acquired in the course of the performance of official duties.

3 B. A person who knowingly discloses information in violation of ~~the~~
4 ~~provisions of~~ this section ~~or section 8-541~~ is guilty of a class 2
5 misdemeanor.

6 C. ~~The provisions of~~ This section ~~shall~~ DOES not ~~be construed to~~
7 prohibit persons employed by the court, the division or ~~an~~ A LICENSED CHILD
8 WELFARE agency from conducting the investigations or performing other duties
9 pursuant to this article and done within the normal course of their
10 employment.

11 Sec. 4. Section 8-801, Arizona Revised Statutes, is amended to read:

12 8-801. Definitions

13 In this chapter, unless the context otherwise requires:

14 1. "Child protective services worker" or "worker" means a person who
15 has been selected by and trained under the requirements prescribed by the
16 department and who assists in carrying out the provisions of this article.

17 2. ~~Extremely serious~~ CRIMINAL conduct allegation" means an allegation
18 of conduct by a parent, guardian or custodian of a child that, if true, would
19 constitute any of the following:

20 (a) A violation of section 13-3623 involving child abuse.

21 (b) A felony offense that constitutes domestic violence as defined in
22 section 13-3601.

23 (c) A violation of section 13-1404 or 13-1406 involving a minor.

24 (d) A violation of section 13-1405, 13-1410 or 13-1417.

25 (e) Any other act of abuse that is classified as a felony.

26 3. "In-home intervention" means a program of services provided
27 pursuant to article 7 of this chapter while the child is still in the custody
28 of the parent, guardian or custodian.

29 4. "Protective services" means a specialized child welfare program
30 that is administered by the department as provided in this chapter and that
31 investigates allegations of and seeks to prevent, intervene in and treat
32 abuse and neglect, to promote the well-being of the child in a permanent home
33 and to coordinate services to strengthen the family.

34 Sec. 5. Section 8-802, Arizona Revised Statutes, is amended to read:

35 8-802. Child protective services worker; fingerprint clearance
36 cards; powers and duties; alteration of files;
37 violation; classification

38 A. The department of economic security shall employ child protective
39 services workers. All persons who are employed as child protective services
40 workers shall have a valid fingerprint clearance card that is issued pursuant
41 to title 41, chapter 12, article 3.1 or shall apply for a fingerprint
42 clearance card within seven working days of employment. A child protective
43 services worker shall certify on forms that are provided by the department of
44 economic security and that are notarized whether the worker is awaiting trial
45 on or has ever been convicted of any of the criminal offenses listed in

1 section 41-1758.03, subsections B and C in this state or similar offenses in
2 another state or jurisdiction.

3 B. The department may cooperate with county agencies and community
4 social services agencies to achieve the purposes of this ~~section~~ CHAPTER.

5 C. A child protective services worker shall:

6 1. Promote the safety and protection of children.

7 2. Accept, screen and assess reports of abuse or neglect pursuant to
8 section 8-817.

9 3. Receive reports of dependent, abused or abandoned children and be
10 prepared to provide temporary foster care for such children on a twenty-four
11 hour basis.

12 4. Receive from any source oral or written information regarding a
13 child who may be in need of protective services. A worker shall not
14 interview a child without the prior written consent of the parent, guardian
15 or custodian of the child unless either:

16 (a) The child initiates contact with the worker.

17 (b) The child who is interviewed is the subject of or is the sibling
18 of or living with the child who is the subject of an abuse or abandonment
19 investigation pursuant to paragraph 5, subdivision (b) of this subsection.

20 (c) THE INTERVIEW IS CONDUCTED PURSUANT TO THE TERMS OF THE PROTOCOLS
21 ESTABLISHED PURSUANT TO SECTION 8-817.

22 5. After the receipt of any report or information pursuant to
23 paragraph 2, 3 or 4 of this subsection, immediately do both of the following:

24 (a) Notify the municipal or county law enforcement agency.

25 (b) Make a prompt and thorough investigation of the nature, extent and
26 cause of any condition that would tend to support or refute the allegation
27 that the child should be adjudicated dependent and the name, age and
28 condition of other children in the home. ~~An extremely serious~~ A CRIMINAL
29 conduct allegation shall be investigated according to the protocols
30 established pursuant to section 8-817 with the appropriate municipal or
31 county law enforcement agency as provided in section 8-817.

32 6. Take a child into temporary custody as provided in section 8-821.
33 Law enforcement officers shall cooperate with the department to remove a
34 child from the custody of the child's parents, guardian or custodian when
35 necessary.

36 7. After investigation, evaluate conditions created by the parents,
37 guardian or custodian that would support or refute the allegation that the
38 child should be adjudicated dependent. The child protective services worker
39 shall then determine whether any child is in need of protective services.

40 8. Offer to the family of any child who is found to be a child in need
41 of protective services those services that are designed to correct unresolved
42 problems that would indicate a reason to adjudicate the child dependent.

1 9. Submit a written report of the worker's investigation to:

2 (a) The department's case management information system within
3 twenty-one days after receipt of the initial information except as provided
4 in section 8-811. If the investigation involves allegations regarding a
5 child who at the time of the alleged incident was in the custody of a child
6 welfare agency licensed by the department of economic security under this
7 title, a copy of the report and any additional investigative or other related
8 reports shall be provided to the board of directors of the agency or to the
9 administrative head of the agency unless the incident is alleged to have been
10 committed by the person. The department shall excise all information with
11 regard to the identity of the source of the reports.

12 (b) The appropriate court forty-eight hours before a dependency
13 hearing pursuant to a petition of dependency or within twenty-one days after
14 a petition of dependency is filed, whichever is earlier. On receipt of the
15 report the court shall make the report available to all parties and counsel.

16 10. Accept a child into voluntary placement pursuant to section 8-806.

17 D. No child shall remain in temporary custody for a period exceeding
18 seventy-two hours, excluding Saturdays, Sundays and holidays, unless a
19 dependency petition is filed. If no petition is filed and the child is
20 released to the child's parent, guardian or custodian, the worker shall file
21 a report of removal with the central registry within seventy-two hours of the
22 child's release. The report shall include:

23 1. The dates of previous referrals, investigations or temporary
24 custody.

25 2. The dates on which other children in the family have been taken
26 into temporary custody.

27 E. The department shall provide child protective services workers who
28 investigate allegations of abuse and neglect with training in forensic
29 interviewing and processes, the protocols ~~developed~~ ESTABLISHED pursuant to
30 section 8-817 and relevant law enforcement procedures. All child protective
31 services workers shall be trained in their duty to protect the legal rights
32 of children and families from the time of the initial contact through
33 treatment. THE TRAINING SHALL INCLUDE KNOWLEDGE OF A CHILD'S RIGHTS AS A
34 VICTIM OF CRIME. The training for child protective services workers shall
35 also include instruction on the legal rights of parents and the requirements
36 for legal search and seizure by law enforcement officers.

37 F. In conducting an investigation pursuant to this section, if the
38 worker is made aware that an allegation of abuse or neglect may also have
39 been made in another state, the worker shall contact the appropriate agency
40 in that state to attempt to determine the outcome of any investigation of
41 that allegation.

42 G. Any person who alters a client file for the purpose of fraud or
43 misrepresentation is guilty of a class 2 misdemeanor.

1 Sec. 6. Section 8-807, Arizona Revised Statutes, is amended to read:
2 8-807. CPS information; public record; use; confidentiality;
3 violation; classification; definitions

4 A. CPS information shall be maintained by the department as required
5 by federal law as a condition of the allocation of federal monies to this
6 state. All exceptions for the public release of CPS information shall be
7 construed as openly as possible under federal law.

8 B. ~~If there is a reasonable need for the CPS information,~~ The
9 department, or a person who receives CPS information pursuant to this
10 subsection, shall provide CPS information to a federal agency, a state
11 agency, a tribal agency, a county or municipal agency, a ~~county attorney~~ LAW
12 ENFORCEMENT AGENCY, A PROSECUTOR, AN ATTORNEY OR GUARDIAN AD LITEM
13 REPRESENTING A CHILD VICTIM OF CRIME PURSUANT TO ARTICLE II, SECTION 2.1,
14 CONSTITUTION OF ARIZONA, a school, a community service provider, a contract
15 service provider or any other person that is providing services pursuant to
16 this chapter:

17 1. To meet its duties to provide for the safety, permanency and
18 well-being of a child, provide services to a parent, guardian or custodian or
19 provide services to family members to strengthen the family pursuant to this
20 chapter.

21 2. To enforce or prosecute any violation involving child abuse or
22 neglect, ~~including provision of the CPS information to a defendant after a~~
23 ~~criminal charge has been filed.~~

24 3. TO PROVIDE INFORMATION TO A DEFENDANT AFTER A CRIMINAL CHARGE HAS
25 BEEN FILED AS REQUIRED BY AN ORDER OF THE CRIMINAL COURT.

26 C. The department shall disclose CPS information to a court, a party
27 in a dependency or termination of parental rights proceeding or the party's
28 attorney, the foster care review board or a court appointed special advocate
29 for the purposes of and as prescribed in this title.

30 D. The department shall disclose CPS information to a domestic
31 relations, family or conciliation court if the CPS information is necessary
32 to promote the safety and well-being of children. The court shall notify the
33 parties that it has received the CPS information.

34 E. A person or agent of a person who is the subject of CPS information
35 shall have access to CPS information concerning that person.

36 F. The department:

37 1. May provide CPS information to confirm, clarify or correct
38 information concerning an allegation or actual instance of child abuse or
39 neglect that has been made public by sources outside the department.

40 ~~2. May provide and, on request, shall provide summary information~~
41 ~~regarding a fatality or near fatality caused by abuse or neglect.~~

42 2. SHALL PROMPTLY PROVIDE CPS INFORMATION TO THE PUBLIC REGARDING A
43 CASE OF CHILD ABUSE, ABANDONMENT OR NEGLECT THAT HAS RESULTED IN A FATALITY
44 OR NEAR FATALITY AS FOLLOWS:

1 (a) THE DEPARTMENT SHALL PROVIDE PRELIMINARY INFORMATION INCLUDING:
2 (i) THE NAME, AGE AND CITY, TOWN OR GENERAL LOCATION OF RESIDENCE OF
3 THE CHILD WHO HAS SUFFERED A NEAR FATALITY OR FATALITY.

4 (ii) THE FACT THAT A CHILD SUFFERED A NEAR FATALITY OR FATALITY AS THE
5 RESULT OF ABUSE, ABANDONMENT OR NEGLECT.

6 (iii) THE NAME, AGE AND CITY, TOWN OR GENERAL LOCATION OF RESIDENCE OF
7 THE ALLEGED PERPETRATOR, IF AVAILABLE.

8 (iv) WHETHER THERE HAVE BEEN REPORTS, OR ANY CURRENT OR PAST CASES, OF
9 CHILD ABUSE, ABANDONMENT OR NEGLECT INVOLVING THE CHILD AND THE CURRENT
10 ALLEGED ABUSIVE OR NEGLECTFUL PARENT, GUARDIAN OR CUSTODIAN.

11 (v) ACTIONS TAKEN BY CHILD PROTECTIVE SERVICES IN RESPONSE TO THE
12 FATALITY OR NEAR FATALITY OF THE CHILD.

13 (b) ON REQUEST BY ANY PERSON, THE DEPARTMENT SHALL PROMPTLY PROVIDE
14 ADDITIONAL CPS INFORMATION TO THE REQUESTOR. BEFORE RELEASING ADDITIONAL CPS
15 INFORMATION, THE DEPARTMENT SHALL PROMPTLY NOTIFY THE COUNTY ATTORNEY OF ANY
16 DECISION TO RELEASE THAT INFORMATION, AND THE COUNTY ATTORNEY SHALL PROMPTLY
17 INFORM THE DEPARTMENT IF IT BELIEVES THE RELEASE WOULD CAUSE A SPECIFIC,
18 MATERIAL HARM TO A CRIMINAL INVESTIGATION. AFTER CONSULTING WITH THE COUNTY
19 ATTORNEY, PURSUANT TO SUBDIVISION (c) OF THIS PARAGRAPH, THE DEPARTMENT SHALL
20 PRODUCE TO THE REQUESTOR AS MUCH ADDITIONAL CPS INFORMATION AS PROMPTLY AS
21 POSSIBLE ABOUT A CASE OF CHILD ABUSE, ABANDONMENT OR NEGLECT THAT RESULTED IN
22 A FATALITY OR NEAR FATALITY.

23 (c) ON REQUEST, THE DEPARTMENT SHALL CONTINUE TO PROVIDE CPS
24 INFORMATION PROMPTLY TO THE PUBLIC ABOUT A FATALITY OR NEAR FATALITY UNLESS:

25 (i) AFTER CONSULTATION WITH THE COUNTY ATTORNEY, THE COUNTY ATTORNEY
26 DEMONSTRATES THAT RELEASE OF PARTICULAR CPS INFORMATION WOULD CAUSE A
27 SPECIFIC, MATERIAL HARM TO A CRIMINAL INVESTIGATION.

28 (ii) THE RELEASE WOULD VIOLATE SUBSECTION A OR K OF THIS SECTION OR
29 THE PRIVACY OF VICTIMS OF CRIME PURSUANT TO ARTICLE II, SECTION 2.1,
30 SUBSECTION C, CONSTITUTION OF ARIZONA.

31 (d) IF ANY PERSON BELIEVES THAT THE COUNTY ATTORNEY HAS FAILED TO
32 DEMONSTRATE THAT RELEASE WOULD CAUSE A SPECIFIC, MATERIAL HARM TO A CRIMINAL
33 INVESTIGATION, THAT PERSON MAY FILE AN ACTION IN SUPERIOR COURT PURSUANT TO
34 TITLE 39, ARTICLE 2, AND SUBSECTION I OF THIS SECTION AND REQUEST THE COURT
35 TO REVIEW THE CPS INFORMATION IN CAMERA AND ORDER DISCLOSURE.

36 3. May provide CPS information to a person who is conducting bona fide
37 research, the results of which might provide CPS information that is
38 beneficial in improving child protective services.

39 4. May provide access to CPS information to the parent, guardian or
40 custodian of a child if the CPS information is reasonably necessary to
41 promote the safety, permanency and well-being of the child.

42 G. Access to CPS information in the central registry shall be provided
43 as prescribed in section 8-804.

1 H. To provide oversight of child protective services, the department
2 shall provide access to CPS information to the following persons, if the CPS
3 information is reasonably necessary for the person to perform the person's
4 official duties:

5 1. Federal or state auditors.

6 2. Persons conducting any accreditation deemed necessary by the
7 department.

8 3. A standing committee of the legislature or a committee appointed by
9 the president of the senate or the speaker of the house of representatives
10 for purposes of conducting investigations related to the legislative
11 oversight of the department of economic security. This information shall not
12 be further disclosed ~~UNLESS A COURT HAS ORDERED THE DISCLOSURE OF THIS~~
13 ~~INFORMATION, THE INFORMATION HAS BEEN DISCLOSED IN A PUBLIC OR COURT RECORD,~~
14 ~~OR THE INFORMATION HAS BEEN DISCLOSED IN THE COURSE OF A PUBLIC MEETING OR~~
15 ~~COURT PROCEEDING.~~

16 4. A legislator who ~~is responsible for oversight of the enabling or~~
17 ~~appropriating legislation to carry out these functions~~ REQUESTS CPS
18 INFORMATION IN THE REGULAR COURSE OF THE LEGISLATOR'S DUTIES. This
19 information shall not be further disclosed ~~UNLESS A COURT HAS ORDERED THE~~
20 ~~DISCLOSURE OF THIS INFORMATION, THE INFORMATION HAS BEEN DISCLOSED IN A~~
21 ~~PUBLIC OR COURT RECORD, OR THE INFORMATION HAS BEEN DISCLOSED IN THE COURSE~~
22 ~~OF A PUBLIC MEETING OR COURT PROCEEDING.~~ To request a file pursuant to this
23 paragraph:

24 (a) The legislator shall submit a written request for CPS information
25 to the presiding officer of the body of which the state legislator is a
26 member. The request shall state the name of the person whose case file is to
27 be reviewed and any other information that will assist the department in
28 locating the file. ~~The request shall also include the office of the~~
29 ~~department at which the legislator wants to review the file.~~

30 (b) The presiding officer shall forward the request to the department
31 within five working days of the receipt of the request.

32 (c) The department shall make the necessary arrangements for the
33 legislator to review the file at an office of the department, chosen by the
34 legislator, within ten working days.

35 (d) The legislator shall sign a form, ~~CONSISTENT WITH THE REQUIREMENTS~~
36 ~~OF THIS PARAGRAPH AND PARAGRAPH 3 OF THIS SUBSECTION,~~ before reviewing the
37 file, that outlines the confidentiality laws governing child protective
38 services files and penalties for further release of the information.

39 5. A citizen review panel as prescribed by federal law, a child
40 fatality review team as provided in title 36, chapter 35 and the office of
41 ombudsman-citizen's aide.

42 ~~I. A person who is not specifically authorized by this section to~~
43 ~~obtain CPS information may petition a judge of the superior court to order~~
44 ~~the department to release that CPS information. The court shall balance the~~
45 ~~rights of the parties entitled to confidentiality pursuant to this section~~

~~against the rights of the parties seeking release of the CPS information. The court may release otherwise confidential CPS information only if the rights of the parties seeking the CPS information and any benefits from releasing the CPS information sought outweigh the rights of the parties entitled to confidentiality and any harm that may result from releasing the CPS information sought.~~

I. A PERSON WHO HAS BEEN DENIED CPS INFORMATION REGARDING A FATALITY OR NEAR FATALITY CAUSED BY ABUSE, ABANDONMENT OR NEGLECT PURSUANT TO SUBSECTION F, PARAGRAPH 2 OR SUBSECTION K OF THIS SECTION MAY BRING A SPECIAL ACTION PURSUANT TO SECTION 39-121.02 IN THE SUPERIOR COURT TO ORDER THE DEPARTMENT TO RELEASE THAT CPS INFORMATION. THE PLAINTIFF SHALL PROVIDE NOTICE TO THE COUNTY ATTORNEY, WHO HAS STANDING AND MAY PARTICIPATE IN THE ACTION. THE COURT SHALL REVIEW THE REQUESTED RECORDS IN CAMERA AND ORDER DISCLOSURE CONSISTENT WITH SUBSECTION A, SUBSECTION F, PARAGRAPH 2 AND SUBSECTION K OF THIS SECTION. THE COURT SHALL TAKE REASONABLE STEPS TO PREVENT ANY CLEARLY UNWARRANTED INVASIONS OF PRIVACY AND PROTECT THE PRIVACY AND DIGNITY OF VICTIMS OF CRIME PURSUANT TO ARTICLE II, SECTION 2.1, SUBSECTION C, CONSTITUTION OF ARIZONA.

J. THE DEPARTMENT OR A PERSON WHO IS NOT SPECIFICALLY AUTHORIZED BY THIS SECTION TO OBTAIN CPS INFORMATION MAY PETITION A JUDGE OF THE SUPERIOR COURT TO ORDER THE DEPARTMENT TO RELEASE CPS INFORMATION. THE PLAINTIFF SHALL PROVIDE NOTICE TO THE COUNTY ATTORNEY, WHO HAS STANDING AND MAY PARTICIPATE IN THE ACTION. THE COURT SHALL REVIEW THE REQUESTED RECORDS IN CAMERA AND SHALL BALANCE THE RIGHTS OF THE PARTIES WHO ARE ENTITLED TO CONFIDENTIALITY PURSUANT TO THIS SECTION AGAINST THE RIGHTS OF THE PARTIES WHO ARE SEEKING THE RELEASE OF THE CPS INFORMATION. THE COURT MAY RELEASE OTHERWISE CONFIDENTIAL CPS INFORMATION ONLY IF THE RIGHTS OF THE PARTIES SEEKING THE CPS INFORMATION AND ANY BENEFITS FROM RELEASING THE CPS INFORMATION OUTWEIGH THE RIGHTS OF THE PARTIES WHO ARE ENTITLED TO CONFIDENTIALITY AND ANY HARM THAT MAY RESULT FROM RELEASING THE CPS INFORMATION. THE COURT SHALL TAKE REASONABLE STEPS TO PREVENT ANY CLEARLY UNWARRANTED INVASIONS OF PRIVACY AND PROTECT THE PRIVACY AND DIGNITY OF VICTIMS OF CRIME PURSUANT TO ARTICLE II, SECTION 2.1, SUBSECTION C, CONSTITUTION OF ARIZONA.

~~J.~~ K. Except as provided in subsection ~~K~~ L of this section, before it releases records under this section, the department shall take whatever precautions it determines are reasonably necessary to protect the identity and safety of a person who reports child abuse or neglect and to protect any other person if the department believes that disclosure of the CPS information would be likely to endanger the life or safety of ~~the~~ ANY person. The department is not required by this section to disclose CPS information if the DEPARTMENT DEMONSTRATES THAT disclosure would ~~compromise the integrity of~~ CAUSE A SPECIFIC, MATERIAL HARM TO a child protective services ~~or criminal~~ investigation. THE DEPARTMENT IS NOT REQUIRED BY THIS SECTION TO DISCLOSE CPS INFORMATION IF, IN CONSULTATION WITH THE COUNTY ATTORNEY, THE COUNTY

1 ATTORNEY DEMONSTRATES THAT DISCLOSURE WOULD CAUSE A SPECIFIC, MATERIAL HARM
2 TO A CRIMINAL INVESTIGATION.

3 ~~K.~~ L. A person who is the subject of an unfounded report or complaint
4 made pursuant to this chapter and who believes that the report or complaint
5 was made in bad faith or with malicious intent may petition a judge of the
6 superior court to order the department to release the CPS information. The
7 petition shall specifically set forth reasons supporting the person's belief
8 that the report or complaint was made in bad faith or with malicious intent.
9 The court shall review the CPS information in camera and the person filing
10 the petition shall be allowed to present evidence in support of the petition.
11 If the court determines that there is a reasonable question of fact as to
12 whether the report or complaint was made in bad faith or with malicious
13 intent and that disclosure of the identity of the person making the report or
14 complaint would not be likely to endanger the life or safety of the person
15 making the report or complaint, it shall provide a copy of the CPS
16 information to the person filing the petition and the original CPS
17 information is subject to discovery in a subsequent civil action regarding
18 the making of the report or complaint.

19 ~~L.~~ M. The department shall provide the person who conducts a forensic
20 medical evaluation with any records the person requests, including social
21 history and family history regarding the child, the child's siblings and the
22 child's parents or guardians.

23 ~~M.~~ N. The department shall provide CPS information on request to a
24 prospective adoptive parent, foster parent or guardian, if the information
25 concerns a child the prospective adoptive parent, foster parent or guardian
26 seeks to adopt or provide care for.

27 ~~N.~~ O. If the department receives information that is confidential by
28 law, the department shall maintain the confidentiality of the information as
29 prescribed in the applicable law.

30 ~~O.~~ P. A person may authorize the release of CPS information about the
31 person but may not waive the confidentiality of CPS information concerning
32 any other person.

33 ~~P.~~ Q. The department may provide a summary of the outcome of a child
34 protective services investigation to the person who reported the suspected
35 child abuse or neglect.

36 ~~Q.~~ R. The department shall adopt rules to facilitate the
37 accessibility of CPS information.

38 ~~R.~~ S. The department may charge a fee for copying costs required to
39 prepare CPS information for release pursuant to this section.

40 ~~S.~~ T. A person who violates this section is guilty of a class 2
41 misdemeanor.

42 ~~T.~~ U. For the purposes of this section:

43 1. "CPS information" includes all information the department gathers
44 during the course of a child protective services investigation conducted
45 under this chapter from the time a file is opened and until it is closed.

1 CPS information does not include information that is contained in child
2 welfare agency licensing records.

3 2. "Near fatality" means an act that, as certified by a physician,
4 places a child in serious or critical condition.

5 Sec. 7. Section 8-817, Arizona Revised Statutes, is amended to read:

6 8-817. Initial screening and safety assessment and
7 investigation protocols; investigations; disclosure of
8 information

9 A. The department shall develop, **ESTABLISH AND IMPLEMENT** initial
10 screening and safety assessment protocols in consultation with the attorney
11 general and statewide with county attorneys, chiefs of police, sheriffs,
12 medical experts, victims' rights advocates, domestic violence victim
13 advocates and mandatory reporters. Any initial screening and safety
14 assessment tools shall be based on sound methodology and shall ensure valid
15 and reliable responses. The department shall establish written policies and
16 procedures to implement the use of the initial screening and safety
17 assessment protocols.

18 B. **TO ENSURE THOROUGH INVESTIGATIONS OF THOSE ACCUSED OF CRIMES**
19 **AGAINST CHILDREN**, in each county, the county attorney, **IN COOPERATION WITH**
20 the sheriff, the chief law enforcement officer for each municipality in the
21 county and the department shall develop, **ADOPT** and implement protocols ~~for~~
22 ~~cooperation in~~ **TO GUIDE THE CONDUCT OF** investigations of allegations
23 involving ~~extremely serious~~ **CRIMINAL** conduct. The protocols shall include:

24 1. The process for notification of receipt of ~~extremely serious~~
25 **CRIMINAL** conduct allegations.

26 2. The standards for interdisciplinary investigations of specific
27 types of abuse and neglect, including timely forensic medical evaluations.

28 3. The standards for interdisciplinary investigations involving native
29 American children in compliance with the Indian child welfare act.

30 4. Procedures for sharing information **AND STANDARDS FOR THE TIMELY**
31 **DISCLOSURE OF INFORMATION**.

32 5. Procedures for coordination of screening, response and
33 investigation with other involved professional disciplines and notification
34 of case status **AND STANDARDS FOR THE TIMELY DISCLOSURE OF RELATED**
35 **INFORMATION**.

36 6. The training required for the involved child protective ~~service~~
37 **SERVICES** workers, law enforcement officers and prosecutors to execute the
38 investigation protocols, including forensic interviewing skills.

39 7. The process to ensure review of and compliance with the
40 investigation protocols and the reporting of activity under the protocols.

41 8. Procedures for an annual report to be transmitted within forty-five
42 days after the end of each fiscal year **INDEPENDENTLY FROM CHILD PROTECTIVE**
43 **SERVICES AND EACH COUNTY ATTORNEY** to the governor, the speaker of the house
44 of representatives and the president of the senate. **THIS REPORT SHALL BE A**
45 **PUBLIC DOCUMENT AND SHALL INCLUDE:**

1 (a) THE NUMBER OF CRIMINAL CONDUCT ALLEGATIONS INVESTIGATED AND HOW
2 MANY OF THESE INVESTIGATIONS WERE CONDUCTED JOINTLY PURSUANT TO THE
3 INVESTIGATION PROTOCOLS ESTABLISHED IN THIS SUBSECTION.

4 (b) INFORMATION FROM EACH COUNTY ATTORNEY REGARDING THE NUMBER OF
5 CASES PRESENTED FOR REVIEW, THE NUMBER OF PERSONS CHARGED IN THOSE CASES, THE
6 REASONS WHY CHARGES WERE NOT PURSUED AND THE DISPOSITION OF THESE CASES.

7 (c) THE REASONS WHY A JOINT INVESTIGATION DID NOT TAKE PLACE.

8 9. Procedures for dispute resolution.

9 ~~C. The department, the appropriate county attorney and the appropriate~~
10 ~~law enforcement agency shall cooperate in the investigation of every~~
11 ~~extremely serious conduct allegation in accordance with the investigation~~
12 ~~protocols established pursuant to this section. Before it releases records~~
13 ~~it receives from the department pursuant to an investigation, the law~~
14 ~~enforcement agency shall take whatever precautions it determines are~~
15 ~~reasonably necessary to protect the identity and safety of a person who~~
16 ~~reports child abuse or neglect and to protect any other person the agency~~
17 ~~believes could be endangered by the disclosure of the CPS information. The~~
18 ~~law enforcement agency is not required to disclose CPS information if the~~
19 ~~disclosure would compromise the integrity of a child protective services or~~
20 ~~criminal investigation.~~

21 C. THE DEPARTMENT SHALL COOPERATE WITH THE COUNTY ATTORNEY AND THE
22 APPROPRIATE LAW ENFORCEMENT AGENCY PURSUANT TO THE INVESTIGATION PROTOCOLS
23 ADOPTED IN THIS SECTION. IN INSTANCES OF CRIMINAL CONDUCT AGAINST A CHILD,
24 THE DEPARTMENT SHALL PROTECT THE VICTIM'S RIGHTS OF THE CHILDREN IN ITS
25 CUSTODY AGAINST HARASSMENT, INTIMIDATION AND ABUSE, AS APPLICABLE, PURSUANT
26 TO ARTICLE II, SECTION 2.1, CONSTITUTION OF ARIZONA.

27 D. THE COUNTY ATTORNEY AND THE LAW ENFORCEMENT AGENCY SHALL COOPERATE
28 WITH THE DEPARTMENT PURSUANT TO THE INVESTIGATION PROTOCOLS ADOPTED IN THIS
29 SECTION.

30 Sec. 8. Section 8-821, Arizona Revised Statutes, is amended to read:

31 8-821. Taking into temporary custody; medical examination;
32 placement; interference; classification

33 A. A child shall be taken into temporary custody in proceedings to
34 declare a child a temporary ward of the court to protect the child, pursuant
35 to an order of the juvenile court on a petition by an interested person, a
36 peace officer or a child protective services worker under oath that
37 reasonable grounds exist to believe that temporary custody is clearly
38 necessary to protect the child from suffering abuse or neglect. If a child
39 is taken into temporary custody pursuant to this section, the child's sibling
40 shall also be taken into temporary custody only if reasonable grounds
41 independently exist to believe that temporary custody is clearly necessary to
42 protect the child from suffering abuse or neglect.

1 B. A child may be taken into temporary custody by a peace officer or a
2 child protective services worker if temporary custody is clearly necessary to
3 protect the child because probable cause exists to believe that the child is
4 either:

5 1. A victim or will imminently become a victim of abuse or neglect.

6 2. Suffering serious physical or emotional injury that can only be
7 diagnosed by a medical doctor or psychologist.

8 3. Physically injured as a result of living on premises where
9 dangerous drugs or narcotic drugs are being manufactured. For the purposes
10 of this paragraph, "dangerous drugs" and "narcotic drugs" have the same
11 meaning prescribed in section 13-3401.

12 ~~C. In determining if a child should be taken into temporary custody,~~
13 ~~the interested person, peace officer or child protective services worker may~~
14 ~~take into consideration as a mitigating factor the participation of the~~
15 ~~parent or guardian in the healthy families program established by section~~
16 ~~8-701.~~

17 ~~D.~~ C. In determining if a child should be taken into temporary
18 custody, the interested person, peace officer or child protective services
19 worker shall take into consideration:

20 1. As a paramount concern the child's health and safety ~~and shall~~
21 ~~consider as a mitigating factor the availability of reasonable services to~~
22 ~~the parent or guardian to prevent or eliminate the need for removal of the~~
23 ~~child and the effort of the parent or guardian to obtain and participate in~~
24 ~~these services.~~

25 2. Whether the parent is willing to participate in ANY services
26 ~~provided pursuant to section 8-830~~ THAT ARE OFFERED TO THEM.

27 ~~E.~~ D. A person who takes a child into custody pursuant to subsection
28 B, paragraph 2 of this section shall immediately have the child examined by a
29 medical doctor or psychologist. After the examination the person shall
30 release the child to the custody of the parent or guardian of the child
31 unless the examination reveals abuse or neglect. Temporary custody of a
32 child taken into custody pursuant to subsection B, paragraph 2 of this
33 section shall not exceed twelve hours.

34 ~~F.~~ E. A child who is taken into temporary custody pursuant to this
35 article shall not be detained in a police station, jail or lockup where
36 adults charged with or convicted of a crime are detained.

37 ~~G.~~ F. A child shall not remain in temporary custody for more than
38 seventy-two hours excluding Saturdays, Sundays and holidays unless a
39 dependency petition is filed.

40 ~~H.~~ G. A person who knowingly interferes with the taking of a child
41 into temporary custody under this section is guilty of a class 2 misdemeanor.

1 Sec. 9. Section 8-846, Arizona Revised Statutes, is amended to read:

2 8-846. Services provided to the child and family

3 A. Except as provided in ~~subsection~~ SUBSECTIONS B AND C of this
4 section, if the child has been removed from the home, the court shall order
5 the department to make reasonable efforts to provide services to the child
6 and the child's parent.

7 B. The court shall consider the following factors and reunification
8 services are not required to be provided if the court finds by clear and
9 convincing evidence that:

10 1. One or more of the following aggravating circumstances exist:

11 (a) A party to the action provides a verified affidavit that states
12 that a reasonably diligent search has failed to identify and locate the
13 parent within three months after the filing of the dependency petition or the
14 parent has expressed no interest in reunification with the child for at least
15 three months after the filing of the dependency petition.

16 (b) The parent or guardian is suffering from a mental illness or
17 mental deficiency of such magnitude that it renders the parent or guardian
18 incapable of benefitting from the reunification services. This finding shall
19 be based on competent evidence from a psychologist or physician that
20 establishes that, even with the provision of reunification services, the
21 parent or guardian is unlikely to be capable of adequately caring for the
22 child within twelve months after the date of the child's removal from the
23 home.

24 (c) The child previously has been removed and adjudicated dependent
25 due to physical or sexual abuse. After the adjudication the child was
26 returned to the custody of the parent or guardian and then subsequently
27 removed within eighteen months due to additional physical or sexual abuse.

28 (d) A child is the victim of serious physical or emotional injury by
29 the parent or guardian or by any person known by the parent or guardian, if
30 the parent or guardian knew or reasonably should have known that the person
31 was abusing the child.

32 (e) The parent's rights to another child have been terminated, the
33 parent has not successfully addressed the issues that led to the termination
34 and the parent is unable to discharge parental responsibilities.

35 (f) After a finding that a child is dependent, all of the following
36 are true:

37 (i) A child has been removed from the parent or guardian on at least
38 two previous occasions.

39 (ii) Reunification services were offered or provided to the parent or
40 guardian after the removal.

41 (iii) The parent or guardian is unable to discharge parental
42 responsibilities.

1 2. The parent or guardian of a child has been convicted of murder or
2 manslaughter of a child, or of sexual abuse, sexual assault of a child,
3 sexual conduct with a minor, molestation of a child, commercial sexual
4 exploitation of a minor, sexual exploitation of a minor, or luring a minor
5 for sexual exploitation.

6 3. The parent or guardian of a child has been convicted of aiding or
7 abetting or attempting, conspiring or soliciting to commit any of the crimes
8 listed in paragraph 2 of this subsection.

9 C. THE COURT SHALL CONSIDER ANY CRIMINAL PROSECUTION RELATING TO THE
10 OFFENSES WHICH LED TO THE CHILD'S REMOVAL FROM THE HOME AND ANY ORDERS OF THE
11 CRIMINAL COURT. INFORMATION MAY BE PROVIDED BY LAW ENFORCEMENT OR THE COUNTY
12 ATTORNEY.